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In the United States District Court
for the Western District of Virginia
Roanoke Division

7:22-cv-00390

Jacobs Shouse #
1101441,
plaintiff,

new trial demanded

v.

Harold Clarke, David Robinson, Denise Malone, Rose Dublin,
Eric Madsen, Ally Lovell, Helsy Shepard, M. Moyse,
D. Davis, J. Casler, Mr. Coughran, Ms. Townsend,
Everett McDuffie, S. Light, Joseph Stratford,
Ms. Church, Mr. McCray
Defendants,

Civil Action Complaint

Parties

1) Plaintiff, Jacobs Shouse #1101441, who is the pro se
plaintiff in this case, currently confined at Virginia's
Supernova Wallens Ridge State Prison (WRSP)

2) Defendant Clarke is the Director of the Virginia
Department of Corrections (Vadoc), whose official functions
and responsibilities within and as an agent of the Vadoc
are characterized by his official title of office and are
set out under Va. Code Title 53.1. He is being sued in
his official and individual capacities

3) Defendant Robinson is the Vader Chief of Corrections operations, he is being sued in his official and individual capacities

4) Defendant Malone is the Vader Chief of Mental Health Services, she is being sued in her official and individual capacities

5) Defendant Durkin is the Vader Americans with Disabilities Act (ADA) supervisor, she is being sued in her official and individual capacities

6) Defendant Madson is the Vader Psychology Associates Director of Clinical Classification Services (Psychiatric Sr. CCS.), he is being sued in his official and individual capacities,

7) Defendant Lovell is the Vader Serious Mental Illness Coordinator, she is being sued in her official and individual capacities

8) Defendant Shupender is Vader Regional Mental Health supervisor/associate, she is being sued in her official and individual capacities

9) Defendant Meyer is A Vader Regional Mental Health Clinical supervisor, he is being sued in his official and individual Capacities

10) Defendant Davis is the Vader Warden at WSP and present custodian of plaintiff, he is being sued in his official and individual capacities

11) Defendant Caughey is the Vadar Chief of Nursing and Programs at WRSP, he is being sued in his official and individual capacities

12) Defendant Caughey is the Vadar Operations Manager / ADA Coordinator at WRSP, he is being sued in his official and individual capacities

13) Defendant Townsend is the Vadar Director of Nursing at WRSP, she is being sued in her official and individual capacities

14) Defendant McHaffie is the Vadar Psychiatrist at WRSP, he is being sued in his official and individual capacities

15) Defendant Light is the Vadar Psychology Associate Senior at WRSP, she is being sued in her official and individual capacities

16) Defendant Stallard is the Vadar Unit Manager of A-building at WRSP housing plaintiff, he is being sued in his official and individual capacities

17) Defendant Church is the Vadar Program Assignment Reviewer and Chief Counselor at WRSP, she is being sued in her official and individual capacities

18) Defendant McCrary is A Vadar Building (A) Lieutenant at WRSP housing plaintiff, he is being sued in his official and individual capacities

19) All Defendants herein have and continue to act under color of state law

Jurisdiction

20) This court has jurisdiction over plaintiff's claims under 28 USC § 1333

Venue

21) Venue lies in this court under 28 USC § 1331

Preliminary Statement

Charge and Introduction

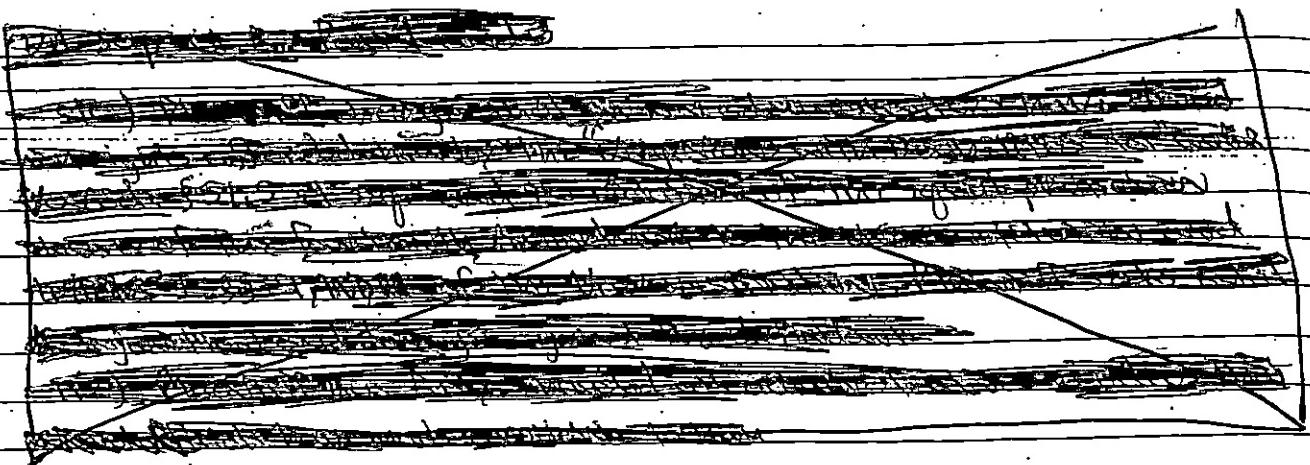
22) This is a civil rights action filed by Jacob Shaver, plaintiff, pro se plaintiff, for relief under Federal Disability Statutes (29 USC § 794, Section 504 of the Rehabilitation Act); and (42 USC § 12101 et seq. Americans with Disabilities Act) seeking declaratory and injunctive relief.

23) Plaintiff further brings separate claims for damages under 42 USC § 1983, eighth and Fourteenth Amendment Violations of the U.S. Constitution.

24) Plaintiff has exhausted his administrative remedies to the extent ~~of~~ ^{of} ~~any~~ ^{any} officials have made available to him under the PLRA.

Statement of Facts

25) Attached hereto are ~~the~~ exhibits plaintiff enters as part of this "facts" section to demonstrate facts to get forth his claims... Not merely to support his exhaustion of administrative remedies. These ~~the~~ exhibits highlights certain defendants' personal involvement but not limited thereof.



Statement of facts
(continued)

- 22.) In regards to this complaint relevant Vadar policies are (operating procedures) OP 830.1, Managing offenders with disabilities and OP 841.2, Work programs; OP 830.3, Goodtime Awards and OP 730.3, Mental Health Levels of Services, but not limited thereto.
- 23.) Plaintiff has been diagnosed as having several qualified disabilities of physical and mental impairment that substantially limits one or more major life activities, defendants refuse to put either signage on his cell door.
- 24.) Plaintiff's is legally blind, has Monotropion, his left eye is (legally blind) with a visual acuity of 20/100 (the clinical determination of 20/200 is legal blindness). Plaintiff's right eye is "completely" blind diagnosed with Optic Atrophy, retinal detachment and cataracts. see Exhibit 2 a/b
- 25.) Plaintiff also has a digestive disorder and requires an ostomy/ colostomy prosthesis as a result from Twenty One (21) abdominal surgeries for absconde attempts by ingesting metal foreign objects since 2004
- 26.) Plaintiff is also diagnosed with several psychological disorders to include, but not limited to: Post Traumatic Stress Disorder, Depression, Anxiety and Personality Disorders with an extensive history of suicidality and serious self-injury requiring One hundred-twenty six (126) emergency hospital admissions at 26 different hospitals across Virginia since 2004
- 27.) Plaintiff has filed a request for reasonable accommodations multiple times: Nov. 23, 2020, April 8, 2021, May 12, 2021 (attached) exhibit 6-8
- 28.) On May 12, 2021, thru ADA Coordinator Mr. Santos met with Medical authority, reviewed plaintiff's medical charts, addressing to grant plaintiff's accommodations request, but none were ever placed except to remove two light bulbs from A five (5) fully fixture in cell - no other requested Vadar pre-set/approved reasonable accommodations (for visually impaired prisoners) have been met to current day. see Exhibit 4

39.) Plaintiff filed numerous grievances on this issue and spoke personally to defendant Wardon Davis, ADA Coordinator/Counselor/Supervisor, complaining of their refusal and was reportedly told "we believe you can see just fine". . . grievance will be answered by WSP grievance officer as "refusing intake" along with a response of "request for services", stating ADA accommodations will be met and provided" on 8-12-21 see exhibit 5 (and how they again refused and retracted appeal exch 7)

40.) Plaintiff further spoke with defendant Conroy on 9-28-21 complaining again of their blatant discrimination and indifference and he stated Plaintiff needs to see eye doctor because "no request for accommodations has been received". This was said with a grain sarcastically, since he knows Plaintiff filed several. see exhibit 3 and 7

41.) Plaintiff continued to meet with the medical provider, Dr. Mullins and on (3) unknown specific date in February and again in March and May 2022 the Doctor certified for "all ADA accommodations are approved by Vadar, for the visually impaired to be provided." This in June

42.) Plaintiff had appointment with optometry in April - May 2022 and noted visual acuity in left eye to have been exacerbated from 20/90 to 20/100 since 2019 evaluation at Pocahontas Coe. Ctr. again seen July 1 2022

43.) Plaintiff has requested from all defendants to coordinate communication with Vadar Headquarters ADA supervisor (from Rosi Durkin) as Plaintiff has written to her numerous times but receives no responses, however, this was reportedly denied too. Had family/friends call her too and recall defendant Durkin

44.) On Feb. 25, 2022 A letter/email from Rights Behind Bars' Attorney, (Ken Nunn), was sent to defendant Davis and other Vadar Defendants letting out the concerns of the complaints herein with this action (attached) exch. 1 a/b

45.) Plaintiff was denied opportunity housing (by SAM unit/pcu) for inmates with mental health/medical disabilities from Feb. 2021 through March 2022 until he was assaulted (attempted murder/confrontation) by A Bloods Gang member on Jan 21, 2022, despite "inmate must be appropriately housed or transferred and get work and inquiries from Rights Behind Bars Attorneys see exch. 1 f/g

46.) Plaintiff has also been discriminated against by defendants Stalder and Mercury by being denied work programs (job assignment) despite numerous attempts and applications submitted, being told by these defendants that Plaintiff will not be allowed to have any work assignments while housed in their building because they "don't like" the plaintiff and "do not trust" his "type" and because he files "too many grievances".

47.) Plaintiff filed grievances explaining that defendants only allow three (3) workers to perform all work duties (eg. tidies, breakroom, showerroom, invitation monitor, recreation, etc.) while Vadar policy only allows one task/duty to be assigned to each worker with more than two (2) certified positions available Plaintiff has general to departmental at a task would be found in lets call by

Above

- defendants responded verbally to plaintiff it was because "they're the only three inmates they like and he's been withdrawn complaints or else"
- 44.) Plaintiff argued that (and complained verbally) OP 841.2, I, sec. K, #1 states "participation in work programs is a factor for cost of inmates evaluation for good time credits and a requirement by Va. regulations Code of Va. § 53.1-202.3; § 53.1 -32.1" and that his criminal division of his goodtime evaluation in Nov 2021 set his must meet treatment objectives at "obtain/maintain institutional placement" as it will affect his goodtime and push back his release date as it previously did in 2021 and will in 2022 November again. Plaintiff told "withdrawal of A.D.A would be bad which"
- 45.) Defendants call all work treat work programs as a "privilege" subject to "discriminatory function" for assignments, rather than under policy and Code of Va Statutes mandatory requirement as part of an inmate's "re-entry" rehabilitation efforts.
- 46.) Defendant Townsend reportedly refuses to respond to any of the request to assist with plaintiff and tells him she doesn't have time for him when he sees her passing by.
- 47.) Defendant Townsend refuses to allow plaintiff adequate colostomy supplies ordered by the physician Dr. Mullins; repeatedly telling plaintiff he will only receive the amount she provides her nurses to give him forcing him to re-use soiled bags and diapers. She refuses to authorise to ADA reasonable accommodation requests transferring with Dr. Mullins recommendations. She refuses to post ADA notes on plaintiff doce pre-petition.
- 48.) Plaintiff has argued and verbally requested adequate mental health treatment for severe long standing suicidality and PTSD, seeking and prescribed weekly therapy sessions for at least one hour performed with a "licensed professional counselor" ~~certified to mental to get treatment recommended by WRSP Psychiatrist Defendant McDouffie~~; however, WRSP does not employ such skilled staff, merely unlicensed "CMTP-Adult" (Qualified Mental Health Professionals) that are not recognized by Va Dept of Health Professions as ~~"licensed therapist"~~ nor does WRSP allow for individual therapy sessions, ~~plaintiff allegedly ask defendants for a transfer to facility with treatment options~~
- 49.) WRSP only allows "evaluation/risk assessments" of self-harm or potential suicide and then, "punitive" measures (i.e., strip-searches) as the full extent of their "outpatient" services, they have no provision for mental health "treatment", except psychotropic prescribed medication.
- 50.) Plaintiff has spoken with defendant Long numerous times to initiate a mental health referral transfers to Gainesville Mental Health Unit for residential services and has been denied repeatedly by her "higher up" (these defendants named in supervisory positions) she says they would have been ~~denied~~. Plaintiff then asked Defendant Townsend for ADA transfer to visually impaired unit at GCC, she refused.

48.) WRSP is a security level five (SL-5) "supermax" facility housing inmates with the most serious behavioral and management problems (e.g., violent offenders) maintaining the highest level of security by imposing many restrictions, e.g., limited movement, attack K-9 dogs, firearms, little contact between inmates and staff, little recreation - typical routine is A maximum of three (3) hours out-of-cell activity - although Under Policy SL-2(b).1.a-f for SL-5 facility is a "minimum" of Seven (7) hours out of cell time daily.

49.) Plaintiff has exhaustingly complained that the harsh restrictions and severe isolation and violent conditions at WRSP has exacerbated his mental illnesses and precariously causing his suicidality and indeed has moved him to attempt suicide at WRSP several times in the past twelve years.

50.) Plaintiff previously spent over a decade at WRSP's sister facility Sheldon State Prison (SSP) in long-term solitary confinement "without" any history of violence or assaultive behavior due solely to his maladaptive symptoms of PTSD and depression from such extremes of isolation and sensory overload/dipelation and psychological torture.

51.) Plaintiff currently meets all Vadar criteria for an interim review of his security level which if completed would score him at a Level 3 as he hasn't had any institutional disciplinary affairs for more than a year, has completed all required/available programs; however defendants refuse to make available an interim review to accommodate his mental and medical needs at a lower security level facility as Vadar policy provides.

52.) WRSP cannot accommodate plaintiff's mental health treatment needs and as a result will continue to exacerbate his mental illness and lead to a direct cause of his "imminent suicide" if not treated adequately and properly.

53.) Plaintiff has repeatedly expanded on that fact to defendants and they do not care and has told him reportedly that "it is your choice".

54.) Plaintiff has expressed to defendants their legal and custodial responsibilities to his mental and physical well-being, they respond that "you are responsible for your actions, not us, you are a manipulator".

55.) Defendants blatantly disregarded recommendations by West Psychiatrist for treatment so as to prevent plaintiff's future attempted suicide/death.

56.) WRSP Assistant Warden, F. Russell, told plaintiff he is not a security level 5 inmate, that he is more like a Level 3 and needs to be there, not at WRSP, "in a face to face meeting Jan, 26, 2022.

57.) defendant McDiffie ~~plaintiff~~, when asked by plaintiff to recommend a transfer to Greenville Mental Health Unit for appropriate treatment such as professional therapy, etc., responded to plaintiff that he'd have to talk to "some people" (indicating defendants in supervisory positions) first because if he wrote that it would "put some people off" that he "backed them into a corner to negotiate" the plaintiff.

59) Defendant Davis, when plaintiff asked him about ~~the~~ ^{any} proceeding for A intensive review to transfer him so he could get adequate M.H. Treatment, in light of the several hand copy letter to defendant Davis from Rights Behind Bars Attorney Oein Neary, Defendant stated "I don't answer to lawyers...he cc'd it to his attorneys (indicating defendants Malone and Maden) and they said the same thing" see ext. 1a/b

(60) Exhibit 21 a-d & 45 A letter plaintiff wrote to defendant Davis and mailed copies to Defendants Clarke, Robinson, Malone, Deebin, Maden, and hand delivered a copy to defendant Lowell, light and McHaffie; he assure this was a suicide notice as plaintiff clearly expressed his imminent suicide intent. Each defendant responded similarly by telling plaintiff of his kills himself it will not hurt anyone but him, it is his choice.

(61) Defendant McHaffie told plaintiff that defendant Malone has "been putting three ducks in order" in the event he kills himself. He has expressed to plaintiff on several occasions that how each defendant "feels" about the plaintiff "precludes necessary treatment and placement at Gersmerville Mental Health unit". Plaintiff requested he serve an affidavit to that and he said he "answer questions that lawyers ask"

(62) That discussion was in regard to law clearly established in A case he was A defendant with also defendant Clarke and Robinson, i.e. Deppa v. Clarke, 884 F. 3d 481

(63) Defendant Maden has written to plaintiff several times affirming his position on Madoc as the Senior Psych. Assoc of Critical Classification has full authority on plaintiff's NED

for ADA reasonable accommodations of constitutionally protected rights to equal treatment and providing adequate mental health treatment; however, he acknowledges his authority, but espouses a secondary role to ADT "challenge other defendant's disapproval because he sees this MHU placement as an "opportunity" rather than A mental health treatment regimen" as "required care" per Under policy, state and federal laws. He blatantly points out especially that misbehavior (regardless if precipitated by mental illness as ~~this~~ is referring to Plaintiff self-injuries/suicides/cutting/swallowing behaviors) will not be tolerated and "includes" any placement/transfer to A mental health unit for treatment.

(64) Defendant Robinson and Lovell have met with Plaintiff on one or more occasions (questionable date but approx. ones in Nov-Dec 2021 by remote telecom with defendant Davis and Robinson together; and 3-4 occasions between Feb-2021 and present day with defendant Lovell) specifically on 3-10-21 Plaintiff spoke face to face with defendants Davis and Lovell ^{carcass} complaining of all claims raised herein, even telling them he was suicidal and going to kill himself at WSP due to inadequate treatment and harsh conditions of lockdown similar to solitary at FSP that has exacerbated his mental illness and caused his PTSD to worsen. They laughed at plaintiff and told him he's tried killing himself hundreds of times and it ain't worked, that he is the "boy that cried wolf".

(65) Defendant Clark met with plaintiff face to face

during his trip to WSP from Rockwood Psychometres (approx 4/22) plaintiff briefly complained to him about all claims herein expanding on the subject of ADA and the necessary and urgent need for adequate treatment before plaintiff ends up committing suicide, defendant Clarke acknowledged that "its true, the regions at MCV (hospital) has said you can't have another surgery or it will kill you"; plaintiff figured he do something to ensure he be transferred back to GCC-MHM for treatment and defendant Clarke pointed at defendant Davis and suggested that "there's your wooden, talk to him".

(66) Plaintiff asked if he remembers the "Dipakal" case and if it set a ~~precedent~~ legally binding precedent in Va. to provide adequate mental healthcare and he told plaintiff "We won that case, you wouldn't believe if you'd stop swallowing stuff you know will kill you"

(67) Plaintiff further asked defendant Clarke about the "jpay" email he and defendant Robinson sent to Vador entire population concerning new governance legislation going into effect July 1 2022, specifically Code of Va 53.1-202.3 and 553.1-32.1 that authorizes of 841.2 (1)(k)(1), (participation in work programs as key factor in inmate gratuities awards), plaintiff told him his being discriminated against by defendants Stalwart, Church and McGary explaining the job chart is located in (within paragraphs 40-44) defendants to no avail, plaintiff

biased concern that he was hired for A job in C-Bldg but defendant Clark refused to acknowledge this application and denied plaintiff the position and pay for 30 days of work imposed by C-Bldg supervisor [see exhibits 15(a-e)]

Defendant Clarke rudely ignored any further dialogue with Plaintiff and walked off

68) defendant Shepard's treatment other than her official role as A MHS Regional supervisor is inaction in detail in facts set out in exhibits 19(a-e)

69) defendant Meyer ignored and responded ignorantly in a deliberately indifferent designed for truth as he exercised extreme prejudice in his biased assertion that his subordinate employee defendant Shepard was in no way inappropriate and plaintiff's complaints were completely without merit as he wrote on exhibits 19(b-e). He gave no consideration in plaintiff's complaints setting biasedly with defendant Shepard in his word over plaintiff's and nothing else.

70) defendant Meyer has the official responsibility to ensure all prisons in the western region afford people all inmates with mental illness with adequate treatment as he's the Mental Health Clinical supervisor.

71) on 7/1/22 WSP optometrist saw and evaluated Plaintiff's eye conditioned asserting he has A neurological degenerative disorder in his only working eye and a minute sufficient visual acuity of 20/400, double the legally blind

¶ Part 2 of 20/20), again attempting to get defendant Townsend to help plaintiff reasonable accommodation in conjunction with defendant Caughron.

72) OTHER INMATES WITH PARTIAL OR LEGAL BLINDNESS

most are housed at Greenville Correctional Center in a specialized unit designed for visually and hearing impaired and all visually impaired inmates are entitled to specific preferred reasonable accommodation that aid in their functioning of daily living and aid in not exacerbating their disability without it, the newest funds allotted works in cell, removal of bulbs, A larger TV with a remote to control color/contrast/brightness and other visual aid functions, A watch/clock that "speaks" the time, magnification devices for TV/books etc., personal inmate aid for mobility/reading/writing assistance, A large job music/mail device, listening devices, special transitional lenses for glasses, etc and not limited these, all are already Verde approved

73) Plaintiff is receiving none of these, simply 1 bulb removed out of 5, still has 4 bulbs that remain ON 24 hrs A day mostly dim at night yet still bright enough to read/waste by. Defendant Davis and Caughron tells plaintiff he is getting all he need in accommodations and refuse to coordinate A telecom meeting with ADA supervisor defendant Durkin.

74) Defendants Robinson, Malone and Madsen and Davis have personally hindered plaintiff placement of being housed

at GCC visually impaired unit or MHH also next door
three digit plaintiff consistent request.

75) All defendants in various ways have not acted
to cure any of the unconstitutional wrongs nor move
to provide for plaintiffs rights under federal statutory
Acts as laid out here in.

Claims for Relief

The failure of each defendant playing a significant role in their individual/personal action or inaction and in their official responsibilities to provide for the plaintiff's rights under 29 USC § 794, section 504 of the Rehabilitation Act and 42 USC § 12101 et seq. of the Americans with Disabilities Act of reasonable accommodations, his health, safety and equal protection against discrimination entitles the plaintiff to relief; and

The actions and inactions of each defendant for their personal wills and failures in the official duties in forcing the plaintiff to work without pay (defendant church) and forcing him to reuse unnecessary restraining bags, denying reasonable accommodations and Doctors orders (defendant Tawney) and adequate mental health treatment being denied knowing the plaintiff's extensive history of mental illness (defendants Clark, Robinson, Mahan, Durbin, Madson, Isbell, Simpson, Moyer, Davis, Coiro, Coughran, McDiffie and Light) constitutes deliberate indifference to a serious medical need and cruel and unusual punishment; violates the 8th amend of the US Constitution.

The failure of defendants McRory, Steward and church to provide for state created (Society Interest in less of productive by not providing work program participation) violates the 14th amend of the US const. and against discrimination of the Rehabilitation Act and ADA.

All defendants fail to obey these federal const/state-richtuous

Relief Requested

WHEREFORE, Plaintiff request that this court grant the following relief:

A. Issue A declaratory judgment stating that:

1.) The actions and/or omissions by the defendants violated and continue to violate the Plaintiff's rights under state/federal constitutions and statutes

B. Issue an injunction ordering defendants to take steps to:

1.) conduct an ~~internal investigation~~ review regarding the plaintiff to ~~find~~ appropriate lower security level and to state genuine

2.) complete & initial health transfer ~~form~~ ^{test} for Plaintiff's appropriate placement/boarding at Greensville Mental Health Unit for long-term residential treatment pursuant to Va Code §8.01-622.1(B)

3.) comply and provide all requests for reasonable accommodations approved by the Virginia ADA Coordinator at Headquarters for the qualified disabilities of Plaintiff and provide for the Plaintiff A telecommunication appointment with the ~~ADA~~ ADA coordinator supervised there immediately to review confirmed accommodations.

C. Award compensatory and punitive damages in the following amounts:

1.) \$10000 jointly and severally against defendants for the physical and emotional injuries sustained from Plaintiff's suicide attempts and defendants' actions and omissions laid out herein this complaint and for the punishment, in whole depreciation of liberty and humanity and cruel and unusual punishment and "cruel and harsh"

D. ~~Allow~~ Allow Plaintiff to proceed in forma pauperis, (See motion attached) pursuant to 28 USC §1915

E. Grant such other relief as it may appear that Plaintiff is entitled

Plaintiff swears under penalty of perjury, pursuant to Va. Code §8.01-280, that the foregoing is true and correct

July 3, 2022

Respectfully submitted,

Jacob Shouse, #104441

David J. ...

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